

COUNTY OF ERIE

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ERIE COUNTY LEGISLATURE

LOCAL LAW INTRO NO. 2 – 2004 (PRINT #2)

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LOCAL LAW NO. 2 - 2004

A LOCAL LAW requiring impoundment of vehicles subsequent to an arrest for Driving While Intoxicated/Ability Impaired.

BE IT ENACTED BY THE ERIE COUNTY LEGISLATURE AS FOLLOWS:

Section 1. Legislative Intent.

The Erie County Legislature hereby finds, declares and determines that:

- A. Driving While Intoxicated and Driving While Ability Impaired are serious criminal offenses which have tragic effects on Erie County, New York, and the United States.
- B. In order to help law enforcement curb these offenses, the Erie County Legislature is initiating legislation calling for an absolute minimum twelve hour vehicle impoundment when someone is arrested for drunk driving.
- C. There are numerous stories and instances of drunk drivers being released from jail on a bond, picking up their car and getting involved in a subsequent serious and/or fatal vehicle accident.
- D. Data has shown that vehicle impoundment has been consistently effective in reducing DWI offenses among convicted drinking drivers.
- E. First-time offenders who had their vehicles impounded had 25 percent fewer crashes than those who did not; repeat offenders who had their vehicles impounded had 38 percent fewer crashes than those who did not.
- F. Even two years after the impoundment, drivers whose vehicles were impounded had at least 35 percent fewer DWI's when compared with those who had not.
- G. Various municipalities in Erie County already support vehicle impoundment in DWI cases; however the Erie County Legislature finds that there is the need to make mandatory impoundment an across-the-board punishment to curb drunk driving and save lives.
- H. Only through mandatory impoundment can we help to ensure that DWI and DWAI drivers are prohibited from driving until they are completely sober.

Section 2. Short Title.

This Local Law shall be known as "The Erie County DWI/DWAI Vehicle Impoundment Law."

Section 3. Impoundment of Vehicles.

- A. Whenever a person has been arrested for a violation of N.Y. Vehicle & Traffic Law Sections 1192(1), 1192(2), 1192(3), 1192(4), 1192(5), 1192(6) and/or 1192-a, the arresting law enforcement agency or its duly authorized agent shall impound and take possession of the vehicle the person was operating at the time of their arrest.
- B. A vehicle impounded pursuant to Section 3(A) shall remain in the possession of the arresting law enforcement agency or its duly authorized agent until and when the following conditions are met:
 - 1. the vehicle may be released to the arrestee no earlier than twelve (12) hours after the time of arrest;
 - 2. the vehicle may be released to a party other than the arrestee if:
 - (a) the vehicle is owned or leased by the individual claiming the vehicle other than the arrestee; or
 - (b) the vehicle is owned or leased by the arrestee, the arrestee is eighteen or older, and the arrestee gives their written permission, pursuant to the requirements of the arresting law enforcement agency or its duly authorized agent, to another individual to claim the vehicle; or
 - (c) the vehicle is owned or leased by the arrestee, the arrestee is under eighteen and unemancipated, the vehicle may be released to the parent or legal guardian of the arrestee.
 - 3. A vehicle impounded under this section shall not be released to any person unless the person claiming the vehicle from the arresting law enforcement agency or its duly authorized agent:
 - (a) presents a valid license, proof of ownership or lawful authority to operate a motor vehicle;

- (b) would not be in violation of N.Y. Vehicle & Traffic Law Sections 1192(1), 1192(2), 1192(3), 1192(4), 1192(5), 1192(6) and/or 1192-a in connection with operating the vehicle and is otherwise able to operate the vehicle in a safe manner; and
 - (c) meets any other reasonable conditions established for release of the vehicle established by the arresting law enforcement agency or its duly authorized agent, including but not limited to, reasonable fees for towing and storage of the vehicle until the time the vehicle is claimed. The arresting law enforcement agency or its duly authorized agent may retain custody of the vehicle until such conditions are complied with or fees paid.
- 4. Nothing in this Local Law shall be construed to prevent or supercede a court of competent jurisdiction from exercising its authority in connection with the release of a vehicle impounded under this Local Law.

Section 4. Effect of Other Laws

Notwithstanding any provision of this Local Law to the contrary, this Local Law is not intended to supercede or compromise any local, state or federal law, rule or regulation that would authorize the continued impoundment of a vehicle for evidentiary or other legal purposes.

Section 5. Rules & Regulations.

The Erie County Sheriff or the Chief Law Enforcement Officer of any other law enforcement agency in Erie County or their duly authorized agents are hereby authorized to promulgate such rules and regulations that are lawful, necessary and appropriate to implement, enforce or otherwise carry out the purposes of this Local Law.

Section 6. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this Local Law or the application thereof, to any person, individual, corporation, firm, partnership, entity or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional such order of judgment shall not

affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local Law or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

Section 7. Effective Date.

This Local Law shall take effect immediately upon its filing with the Secretary of State, in accordance with Section 27 of the New York State Municipal Home Rule Law.

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